

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LANGSTON LONNELL ROGERS,

Defendant-Appellant.

UNPUBLISHED

January 20, 2005

No. 250509

Baraga Circuit Court

LC No. 03-000818-FH

Before: Hoekstra, P.J., and Cavanagh and Borrello, JJ.

PER CURIAM.

Defendant appeals as of right his jury conviction for assaulting a prison employee, MCL 750.197c. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues he was denied his constitutional right to be represented by counsel when the trial court refused to appoint substitute counsel. We disagree.

An indigent defendant is entitled to appointed counsel; however, he is not entitled to choose his own appointed counsel. *People v Ginther*, 390 Mich 436, 441; 212 NW2d 922 (1973); *People v Ackerman*, 257 Mich App 434, 456; 669 NW2d 818 (2003). The decision regarding substitution of appointed counsel is within the sound discretion of the trial court and will not be reversed absent an abuse of that discretion. *People v Traylor*, 245 Mich App 460, 462; 628 NW2d 120 (2001). Appointment of substitute counsel is warranted only upon a showing of good cause and where substitution will not unreasonably disrupt the judicial process. *Id.* Mere allegations that a defendant lacks confidence in his attorney do not constitute good cause to substitute counsel. *Id.*, 463.

In the instant case, there is no indication in the record that defendant had a genuine disagreement with appointed counsel over the use of any substantial defense or trial tactic. Nor is there any evidence in the record indicating that appointed counsel lacked diligence in handling this case. Defendant's complaints concerning appointed counsel relate to counsel's refusal to take defendant's prison mail from inside the prison where he was an inmate, and mail it from the outside; a task which the court informed counsel he could not perform. Defendant also claims counsel failed to provide him with discovery and to provide him with transcripts of the arraignment proceedings. Defendant's objections to his appointed counsel are no more than

allegations that defendant lacked confidence in his attorney, which is not enough to require an assignment of substitute counsel. *Traylor, supra*. Consequently, the trial court did not abuse its discretion by denying defendant's requests.

Defendant next argues that the trial court abused its discretion when it allowed him to represent himself at trial. We disagree. Several requirements must be met before a defendant may proceed in propria persona. *People v Hicks*, 259 Mich App 518, 523; 675 NW2d 599 (2003). First, a defendant's request to represent himself must be unequivocal. *Id.* Second, the trial court must determine that the defendant's assertion of his right to represent himself is made knowing, intelligently, and voluntarily. *Id.* Third, the trial court must determine that the defendant's self-representation will not disrupt, inconvenience or burden the court. *Id.* Additionally, the trial court must inform the defendant of the risks of self-representation as required by MCR 6.005(D). *People v Adkins*, 452 Mich 702, 722; 551 NW2d 108 (1996).

At the pretrial conference, defendant unequivocally informed the court he wished to defend himself after the court refused defendant's motion for substitute counsel. At the beginning of trial, defendant reaffirmed that he wished to represent himself. The court then informed defendant of the risks involved in self-representation and that defendant may not be aware of the complexities involved with a trial and defendant indicated he understood and accepted those risks.

Defendant made an unequivocal request to represent himself; the request was knowingly, intelligently, and voluntarily made; and the trial court substantially complied with the requirements of MCR 6.005(D). Nevertheless, defendant contends that, due to his constant interruptions during the proceedings, the court abused its discretion by allowing him to continue defending himself. We reject this argument. Although defendant did repeatedly interrupt the trial court, none of the interruptions substantially disrupted the proceedings. Thus, we find the trial court did not abuse its discretion when it allowed defendant to represent himself.

Finally, defendant asserts that at sentencing, he represented himself without being reminded of the risks of doing so, in violation of MCR 6.005(E). Defendant argues that this requires a remand for resentencing. We disagree. The failure to strictly adhere to the court rules in and of itself does not mandate reversal. *People v Lane*, 453 Mich 132, 139; 551 NW2d 382 (1996). In *Lane*, the trial court failed to advise the defendant regarding his right to counsel at his sentencing hearing, but our Supreme Court concluded that the error was harmless because the defendant did not allege that it prejudiced him in any way. *Id.*, 141. Similarly, defendant has not alleged that the trial court's failure to comply with MCR 6.005(E) prejudiced the outcome of the sentencing hearing. Therefore, defendant is not entitled a remand for resentencing.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Mark J. Cavanagh
/s/ Stephen L. Borrello